

The proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer are exempt from tax to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food and beverage function with respect to which the service charge is imposed. See 35 ILCS 120/2-5(15) (1998 State Bar Edition). (This is a GIL).

December 30, 1999

Dear Xxxxx:

This letter is in response to your letter dated November 8, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We have been referred to you for answers to questions on tax charged for dinner dances at country clubs. The differnt clubs vary.

At a restaurant a person is charged for the meal and then tax is charged on that amount. The gratuity is not taxed.

At the clubs they charge:

1club) Cost of dinner/ tax/ a fixed fee (say 20%) The fee is not charged.

2club) The fee is called a service charge (same 20%) but the fee is taxed.

One tax man said the tax is based on how the fee is used, and of course I do not know how it is used. I was told this is a gray matter according to the tax man.

Can you make this less 'gray'. I would appreciate hearing from you.

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I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk

Enc.